

REMARKS

A Pursuant for a Two (2) Month Extension of Time pursuant to 37 CFR

§1.136(a) and (b) accompanies this response.

The above-captioned patent application has been carefully reviewed in light of the Office Action to which this Amendment is responsive.

Claims 1-3, 6-14, 17-19 are currently pending in the above-captioned application. Claim 19 is newly added. The Examiner has rejected the pending Claims 1-3, 6-14, 17-18 under 35 U.S.C. §103(a) as being unpatentable over Sandelman (U.S. Patent No. 6,211,782) in view of Levi et al (U.S. Patent No. 6,477,667). Applicants herein respectfully traverse the above rejection.

As stated in the Applicant's previous response dated July 30, 2003, Levi merely transmits outgoing messages concerning the device at predetermined intervals but cannot provide messages on demand from the user. The Levi system is unidirectional in terms of communication and communication access. As stated within the Levi specification, the agent provides "no support for receiving inbound information or connections" (See column 14, lines 26-29).

The system described by Levi is flawed because it does not address problems associated with the reliability of its device monitoring functionality, namely the reliability of the its agent, its listener process or its operations center. With respect to the operation of the Levi agent, Levi states "a check is made to see if any...traps have been created...[if] YES...the traps are treated as alerts and sent to the operations center" (column 16, lines 9-13) and states "if no traps have been generated [the] agent 81 may sleep for a pre-determined period of time...and then continue to again check...values of each operating parameter on the device 30" (column 16, lines 13-18) and "The method proceeds until agent 81 is terminated, such as at system shutdown" (column 16, lines 13-18).

If the Levi agent fails, such as due to an unplanned termination from a problem occurring while executing, it would be incapable of sending alerts to the Levi operations center. After such an agent termination, the Levi listening process

and the Levi operations center would receive no alerts and fail to notify the user of any problem, creating the appearance that the monitored device was operating properly when in fact, it may not be operating properly.

The Applicants' independent Claims 1, 12-13 and 19 recite, in part, "a server with bi-directional communications access...to an entry device and...at least one HVAC device" and "querying...said at least one HVAC device for status information" (underline added). The Applicants' independent Claim 13 specifically recites "querying...said at least one HVAC device for status information when requested by a message from said entry device" (underline added). The Applicants' independent Claims 1 and 12 include "querying means" which implicitly read upon the "when requested by a message from said entry device" language of independent Claim 13, as disclosed within the Applicants invention description (page 7, lines 17-19).

The Applicants' above recited claim elements describe, in part, the enablement of a user to initiate a status information query to the monitored (HVAC) device, on demand from the entry device. This functionality enables the user to detect a problem associated with the monitoring of the device as well as to detect a problem associated with the monitored device itself.

For example, if the Applicants' device monitoring mechanism terminates in an unplanned manner, the Applicants' status information query from the entry device to and through the server and to the monitored (HVAC) device will yield no response back to the user. The lack of a response back to the user from the monitored device and/or from the server indicates the existence of a problem with at least the functionality related to the monitoring of the device and possibly indicates a problem with monitored device itself.

Furthermore, the lack of response will cause the detection of a time out (event) by the user device, also indicating the existence of a problem with at least the functionality related to the monitoring of the device and possibly indicating a problem with monitored device itself.

New Claim 19 recites, in part, "means for said entry device to detect a time out event associated with said bi-directional communications access connection". The claimed time out detection structure, like that of a lack of response to the user following an on-demand query, provides the user with information to initiate action to correct problems associated with the lack of response from the monitored device and/or the server. This functionality is not provided by any reference of the cited art.

In summary, the subject matter of the Applicants' claimed invention provides a substantial improvement to the usability and reliability of information provided to the user, as compared to the subject matter described by either *Sandleman* or *Levi* or by the hypothetical combination of *Sandelman* and *Levi*.

If the differences between the Applicants' claimed subject matter and that of the combination of *Sandelman* and *Levi* were obvious, those differences could at least be found within other art cited by the Examiner.

These differences are not described within any of the art cited by the Examiner. In fact, *Levi* teaches away from the teachings of the Applicants' claimed invention, as explained in the Applicants' previous response and stated within the *Levi* specification (column 14, lines 26-29).

The Examiner indicates that the differences provided by the Applicants' claimed invention are obvious. If these differences are obvious, then why is there no cited art that takes advantage of the substantial benefits associated with these differences? The Applicants assert that the cited art does not take advantage of the substantial benefits associated with these differences, because these differences are not obvious with respect to the cited art. Consequently, the Applicant's believe that the patent application is in condition for allowance.

In summary, it is believed the above-captioned patent application is now in an allowable condition and such allowance is earnestly solicited.

Serial No.: 09/679,853
Amendment Dated: March 10, 2004
Reply to Office Action of October 22, 2003

The Examiner is invited to contact Applicants' representative at the telephone number below to address any remaining issues. The Commissioner is hereby authorized to charge any fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicant's representative at the telephone number below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

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